Applicant : Gregg D. Wilensky   Attorney's Docket No.: 07844-617001 / P574
Serial No. : 10/678,366
Filed   : October 3, 2003
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REMARKS

Claims 1-48 are pending, with claims 1, 19 and 25 being independent. Reconsideration and allowance of the above-referenced application are respectfully requested in light of the following remarks.

Drawing Objections

The drawings were objected to under 37 C.F.R. §1.83(a) as failing to show every feature of the invention specified in the dependent claims 3-18, 20-23 and 27-48. The applicant respectfully disagrees and notes the following portion of 37 C.F.R. §1.83(a) (*emphasis added*):

> However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, *should* be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation.

The applicant respectfully submits that detailed illustration of the dependent claims is not required for proper understanding of the invention. Accordingly, the applicant respectfully requests that this objection be withdrawn.

Section 101 Rejections

Claims 25-42 stand rejected for allegedly reciting non-statutory inventions under 35 U.S.C. §101. The applicant respectfully disagrees with the examiner's conclusion, but has amended claim 25 in order to expedite prosecution of this application.

Accordingly, claims 25-42 are in condition for allowance.

Section 102 Rejections

Claims 1-43 and 48 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,728,421("Kokemohr").

Claim 1 recites in part (*emphasis added*), determining a first tone value for a location within the image based upon attributes of pixels within a first neighborhood surrounding the location, the first tone value specifying a local weight for a first tone adjustment in the image.

Kokemohr discloses that so-called Image Reference Points (IRPs) can be used to modify a digital image. *See* col. 2, lines 23-32. Users position IRPs at various locations in a digital image and assign image editing functions to them. The examiner asserted that Kokemohr anticipates claim 1 by relying on two passages. The first passage reads as follows (col. 8, lines 5-14):

> Typically, a pixel will not match the attributes of one IRP to a degree of 100%. One pixel's attributes might, for example, match one IRP to 50%, another IRP to 30% and a third IRP only to 20%. In the current embodiment using soft classification, the algorithm would apply the effect of the first IRP to a degree of 50%, the second IRP's effect at 30%, and the third IRP's effect to 20%.

The first passage discloses that a pixel at a given location in a digital image is compared to attributes of IRPs in order to determine a weight to assign IRP image editing functions when applying them to modify the pixel. Larger weights are assigned to IRPs that are closer matches. The second relied on passage says much of the same (col. 8, lines 40-48):

> In one preferred embodiment, a mixing function uses a set of attributes for each pixel (luminosity, hue, etc.). These attributes are compared to the attributes of the area where an IRP is positioned, and the Mixing Function applies those IRPs image modifications more whose associated attributes are similar to the actual pixel, and those IRPs image modifications less whose associated characteristics are very different from the actual pixel.

Thus, both passages in Kokemohr disclose that a pixel's attributes are compared to the attributes of IRPs in order to determine a weight for the IRPs' associated functions. However, claim 1 requires that a weight is determined based upon attributes of pixels in a neighborhood surrounding a given pixel– *not* based on a comparison of the given pixel with other attributes.

Accordingly, claim 1 and its dependent claims 2-18 are in condition for allowance. Claims 25-42 are analogous program product claims and, as such, are also in condition for allowance. System 19-24 and 43-48 include similar limitations to claim 1 and are in condition for allowance for at least the same reason.

<div align="center">Section 103 Rejections</div>

Claims 44-47 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,728,421("Kokemohr").

As addressed above, Kokemohr does not anticipate claims 44-47. The examiner's allegations as to what was well known in the art at the time of the invention fail to remedy the deficiencies in Kokemohr.

Accordingly, claims 44-47 are in condition for allowance.

<div align="center">Information Disclosure Statement</div>

The examiner kindly noted that several references listed in the Information Disclosure Statements submitted in April 2005 and September 2004 are missing from the file wrapper. The applicant is hereby resubmitting these references along with several additional references.

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Conclusion

By responding in the foregoing remarks only to particular positions taken by the examiner, the Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, the Applicant's arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.

The Applicant respectfully requests that all pending claims be allowed. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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Daniel J. Burns
Reg. No. 50,222

Customer No. 021876
Fish & Richardson P.C.
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

50402934.doc